

# RAILROAD CAR MANAGEMENT COMPANY, INC.

RAILROAD CAR MANAGEMENT AND LEASING

LUCILLE J. BOSTON, PRESIDENT

JON PARKS, TRAFFIC MANAGER

(213) 821-3600

(213) 822-9038

15005  
REGISTRATION NO. 15005 Filed 1425

JUL 29 1986 -10 45 AM

July 2, 1986

INTERSTATE COMMERCE COMMISSION

Ms. Mildred Lee  
Interstate Commerce Commission  
12th Street & Constitution Ave. NW  
Room 2303  
Washington, DC 20423

Re: ICC Railcar Registration No# ~~15003~~ 15005  
Registration of Management Contract

Dear Ms. Lee;

Enclosed for recording, pursuant to the provisions of Section 20C of the Interstate Commerce Act, are three (3) copies of our Management Contract to Earl Schafer and Sallie Schafer, dated June 12, 1985, together with a check in the sum of \$10.00 in payment of the recording fee.

In connection with the recording of this Contract, the cars have previously been registered under ICC ~~15003~~ 15005

Name and Address of Mortgagor/  
Registered Owner:

Mr. & Mrs. Earl Schafer  
13037 San Vicente Blvd.  
Los Angeles, CA 90049

Name and Address of Mortgagee/  
Legal Owner:

Mr. & Mrs. Earl Schafer  
13037 San Vicente Blvd.  
Los Angeles, CA 90049

General description of equipment covered by lease arrangement are marked and numbered LLIX 8042 & LLIX 8043: 20,000 gallon, inner-coiled, non-insulated general purpose tank car.

Equipment managed and operated by RAILROAD CAR MANAGEMENT COMPANY INC., Marina City Club, 4314 Marina City Drive, Suite 130, Marina del Rey, California 90292. When recording has been completed, please return two (2) copies of the Contract with recording date endorsed thereon to RAILROAD CAR MANAGEMENT COMPANY, INC.

Very truly yours,

  
Lucille J. Boston

LJB:dp  
Encls.

MARINA CITY CLUB, 4314 Marina City Dr., Ste. 130, Marina del Rey, CA 90292

# Interstate Commerce Commission

Washington, D.C. 20423

7/29/86

## OFFICE OF THE SECRETARY

Lucille J. Boston  
President  
RR. Car Management Company, Inc.  
Marina City Drive  
4314 Marina City Club Ste 130  
Marina del Rey, CA. 90292

Dear Ms. Boston:

The enclosed document(s) was recorded pursuant to the provisions of Section 11303 of the Interstate Commerce Act, 49 U.S.C. 11303, on 7/29/86 at 10:45am, and assigned recordation number(s). 15005

Sincerely yours,

*Noreta R. McGee*

Enclosure(s)

SE-30  
(7/79)

RAILROAD CAR MANAGEMENT COMPANY, INC.

MANAGEMENT COMPANY

REGISTRATION NO. 45005  
JUL 27 1986 -10 45 AM  
INTERSTATE COMMERCE COMMISSION

THIS AGREEMENT, made this 12th day of June, 1985,  
by and between RAILROAD CAR MANAGEMENT COMPANY, INC., a California  
corporation, hereinafter called "MANAGER", and EARL SCHAFER and  
SALLIE SCHAFER, Husband & wife as Joint Tenants  
of 13037 San Vicente Blvd, Los Angeles, CA. 90049  
hereinafter called "OWNER".

WITNESSETH:

WHEREAS, OWNER holds title to the following described railroad  
cars:

<u>AAR</u> <u>MECH.</u> <u>DESIG.</u>	<u>DESCRIPTION</u>	<u>CAPACITY</u>	<u>NUMBER</u> <u>OF</u> <u>UNITS</u>	<u>AAR REPORTING</u> <u>MARKS AND</u> <u>NUMBERS</u>
T105	TANK CAR	20,000 GLS.	2	LLIX 8042 LLIX 8043

hereinafter referred to as "the cars" or as "the equipment", and

WHEREAS, OWNER desires to retain MANAGER to place such cars under  
Association of American Railroads reporting marks and arrange for  
the operation thereof and to provide advice and assistance in cer-  
tain management services in connection with the ownership, opera-  
tion and maintenance of the car(s), and MANAGER desires to provide  
such services to OWNER upon the terms and conditions hereinafter  
set forth.

IN CONSIDERATION of the mutual covenants contained herein, it is  
agreed as follows:

1. MANAGER agrees that:

(a) The MANAGER shall take required steps to determine  
that the equipment conforms to the information listed above and  
that the equipment is authorized for operation under the Associ-  
ation of American Railroads Mechanical Interchange Rules and will  
inspect the equipment at the delivery point if requested to do so  
by the OWNER. The MANAGER shall mark or remark the equipment, to  
the extent necessary and/or required so that it may be properly  
operated in accordance with the AAR Mechanical Interchange Rules.

Equipment placed under the MANAGER'S reporting marks shall be operated under those marks only while covered under this Management Contract.

(b) The MANAGER shall keep separate records of all repairs made by the railroads to each item of equipment and monitor billings for repairs to see that such billings are proper and within the guidelines set forth in the AAR Interchange Rules. Should maintenance other than normal running repairs be needed, MANAGER will arrange for the needed repairs in a railroad or private repair facility as MANAGER deems appropriate and to be in the best interest of the OWNER. MANAGER may withdraw the equipment from service for inspection and repairs approximately 60 days prior to the termination of this Agreement.

(c) The MANAGER shall collect all revenues under any lease; shall pay therefrom all expenses and State taxes arising from the operation and maintenance of the equipment; and shall audit the reports of lessees and railroads to determine that proper mileage allowances and/or other credits have been made. If necessary, the MANAGER shall file all claims with the lessees and with the railroads.

(d) The MANAGER agrees to use its best efforts to lease the equipment in whole as a block, or in part, in a manner which, in the sole judgement of the MANAGER, represents the best utilization of the equipment under the circumstances. The equipment may be leased to shippers, railroads or others on long-term or short-term leases on such terms and conditions, consistent with the terms and conditions hereof, as the MANAGER deems satisfactory to it. OWNER understands that each lease shall be in a standard form of Lease of Railroad Equipment.

(e) The MANAGER will take delivery of the equipment hereunder at DATE SPECIFIED ABOVE. At the termination hereof, the MANAGER shall release the equipment to OWNER at a delivery point or points agreed upon by the MANAGER in writing with the OWNER and shall oversee such cleaning, repairs, and changing of reporting marks as requested by OWNER.

(f) MANAGER agrees to pay OWNER amounts due hereunder on a quarterly basis, within 60 days from the close of each quarter. Inasmuch as MANAGER, as the owner of reportings marks assigned by the Association of American Railroads (AAR), is responsible for payment of all repair bills under AAR Interchange Rules, which provide that the railroads may take as long as one year to bill for repairs made by them, MANAGER shall be entitled to withhold a reasonable amount of the revenues generated by the equipment, as determined by MANAGER, for a period of six months begin-

ning with the date on which this Agreement is terminated. Such funds shall be placed by MANAGER in an interest bearing trust account to be held for the specific and sole purpose of paying any taxes or any repair and maintenance charges, or any other charges attributable to the equipment, statements for which are received after the termination of this Agreement. In the event that MANAGER receives one or more delayed billings which in the aggregate are greater than the available funds, the MANAGER shall have claim against the OWNER and shall be reimbursed by the OWNER within 30 days of billing by the MANAGER. If not paid in 30 days, the amount due will be subject to interest charges of 10% and MANAGER shall be reimbursed for all costs of collection including reasonable attorney's fees.

(g) MANAGER will pay the net earnings of the cars (i.e. the balance of the Gross Operating Profit after deduction of the management fees) to OWNER quarterly within 60 days after the end of each calendar quarter. If any earnings for the quarter are received or expenses paid after the settlement date, they will be included in subsequent quarterly settlements.

(h) The MANAGER will provide a quarterly summary report with said quarterly payment showing all earnings and all maintenance and repair costs, taxes, fees and other expenses to OWNER at the address below with respect to the operation of the equipment. The MANAGER will also take the necessary steps to comply with the taxing laws of the various States of the United States, or Mexico or Canada, where cars may be under lease or in service including the filing of reports, payment of taxes and repairs. OWNER acknowledges that taxes or repairs may be due subsequent to the termination of this Agreement and specifically authorizes the MANAGER to withhold funds for that purpose as described hereinabove.

(i) The MANAGER will maintain books and records, computer print-out sheets and other documents detailing its quarterly summary reports at its place of business which may be made available to OWNER for inspection upon request.

## 2. OWNER agrees that;

(a) OWNER hereby represents to the MANAGER that OWNER has the rightful possession of the equipment and full legal right and authority to enter into this Agreement and that the execution of this Agreement and the delivery of the equipment to the MANAGER hereunder will not violate any lease, purchase agreement, security agreement, management agreement, patent or patent application, or any other instrument which affects ownership, possession, use or control of the equipment. OWNER agrees to indemnify and hold the MANAGER harmless from all liability and expenses, including at-

torneys fees, resulting from a claim that the equipment violates any right of a third person, including patent or security or financial rights, or rights relating to the ownership, operation, possession, control or use of the equipment.

(b) OWNER agrees that in order to stabilize earnings between individual car OWNERS, MANAGER may pool income and expenses of cars of the same type, size and classification managed by it under this form of management contract. Each car in each pool will share prorata for the quarter and proportionately for part quarters.

~~(c) OWNER shall pay MANAGER a start up fee of \$250.00 for each unit of equipment placed under management service covered by this Agreement, such fee being due and payable at execution of this Agreement.~~ Thereafter OWNER will pay MANAGER a quarterly management fee equivalent to Twenty Percent (20%) of the Gross Operating Profit earned by the car(s) subject to this Agreement. Gross Operating Profits means the mileage, car rental, or other income earned during a calendar quarter. All costs and expenses incurred to maintain the cars in interstate service, including but not limited to repairs, maintenance, cleaning, taxes, registration and insurance fees; refunds due railroads or others for mileage earning adjustments; tariff charges made by railroads against the cars; and legal fees to collect lease monies, or to defend against lawsuits, shall be charged against OWNER'S Eighty Percent (80%) of the Gross Operating Profit and listed on OWNER'S quarterly accounting statements and on OWNER'S annual tax statements for inclusion on OWNER'S personal tax returns. In the case of damage to the cars or other circumstances whereby insurance benefits or railroad indemnity payments are received, these amounts will be included in the Operating Profit hereinabove referred to so long as MANAGER advances from the pool account the sums required to pay for the repairs and provided that such payment is reimbursed by the railroad or insurance. In the event sufficient funds do not exist for MANAGER to advance, then OWNER shall be required to advance deficiencies.

(d) OWNER will defend, indemnify and hold MANAGER harmless from and against any and all claims, damages, expenses, or liabilities, incurred by, or asserted against it, as a result of its (or any other party's) operating, possession, control or use of such cars not covered by insurance or lease terms. MANAGER shall in turn make certain that all cars are covered by a lease as protection for OWNER, and at OWNER'S request MANAGER shall obtain insurance coverage on the car(s) in addition to that insurance covering the car(s) under the AAR Interchange Rule 107 and in addition to that insurance carried by lessee as required by the terms of the leases on the cars.

(e) OWNER understands that in the event of a total loss or destruction of any of the cars, MANAGER will pay the owner for the value of the car(s) out of the proceeds from Railroad Indemnification, pursuant to AAR Interchange Rule 107 plus proceeds from any additional insurance covering the cars.

(f) OWNER agrees that MANAGER may deduct its quarterly management fee to the extent earned hereunder, from the Gross Operating Profit earned by the cars as well as other expenses connected with the operation of the cars as specified herein together with registration of the cars including Interstate Commerce Commission registration.

(g) OWNER agrees that MANAGER shall report the cars to State and other taxing authorities on behalf of OWNER in a group with all other cars using MANAGER'S reporting marks for the purpose of establishing the amount, if any, of ad valorem property taxes to be assessed against the cars.

(h) Owner agrees that during the period this Agreement is in effect and for such period that such car or cars are under a long term defineable lease by MANAGER to another entity, OWNER will not sell or dispose of the cars subject hereto without offering MANAGER the right to purchase such car or cars for the same consideration (computed in United States dollars) at which it is being offered to others, less the amount of any broker's fees or sales commissions incurred by OWNER in connection therewith. MANAGER shall have thrity (30) days after receipt of written notification from OWNER of such proposed sale or disposition within which to exercise its right of first refusal; provided, however, that if such car is under a long term defineable lease by MANAGER to another entity, there can be no transfer of such car to another management company and the new purchaser or assignee shall be bound by the terms and conditions of this Management Contract.

3. The parties to this Agreement agree that the risk of loss of the equipment shall be borne by OWNER and that the only reimbursement from insurance shall be as provided under Rule 107, AAR, provided that the MANAGER will obtain further insurance coverage as requested by OWNER. OWNER understands that if the equipment operated under MANAGER'S reporting marks is destroyed by railroads, settlement is made under AAR Interchange Rules. Should it become necessary, MANAGER will file claims for settlement on behalf of OWNER. AAR settlement is based on a formula set forth in the AAR Interchange Rules. A copy of such Rules is available during normal business hours at the offices of MANAGER for OWNER

or his representative to examine. A copy of "The Field Manual of the AAR Rules of Interchange" may be purchased by writing to Association of American Railroads, 1920 L Street N.W., Washington, D.C. 20036.

4. It is the intent of MANAGER to manage each car for the productive life of the car; however, this contract may be terminated at any time by either OWNER or MANAGER, subject to the performance in full of all terms and conditions of any and all existing leases of the cars described herein, upon giving at least ninety (90) days advance notice in writing of intent to terminate, but only after this contract has been in effect for at least seven (7) years. Written notice of termination shall be deemed duly delivered if placed in a sealed envelope, properly addressed to the party against whom the right of termination is asserted, and thereafter deposited with the United States Post Office and sent by certified mail, return receipt requested, with first-class postage thereon fully prepaid.

5. For all purposes of this Agreement, the mailing address of OWNER and MANAGER shall be as follows:

OWNER

MR. & MRS. EARL SCHAFER  
13037 SAN VICENTE BLVD.  
LOS ANGELES, CA 90049

MANAGER

RAILROAD CAR MANAGEMENT CO., INC.  
4314 Marina City Drive, Suite 130  
Marina del Rey, CA. 90292

6. This contract shall be binding upon and shall inure to the benefit of the successors, heirs and assigns of the parties hereto.

7. This Agreement is effective with regard to each of the cars upon the date of the first loaded movement from the initial loading point designated by MANAGER, and is to remain in full force and effect until terminated in accordance with paragraph 4 hereof.

8. With respect to the services to be performed by MANAGER pursuant to this Agreement, MANAGER is an independent contractor and is not a partner, joint venturer or employee of the OWNER and,



except as otherwise specifically provided for by this Agreement, shall have no authority to bind the OWNER in any manner without the prior written consent of the OWNER. MANAGER shall acquire no ownership, title, property rights or interest in or to the car(s) or any other property of the OWNER by virtue of this Agreement other than to have a lien against said car(s) in the event payment is not made by OWNER of amounts due hereunder.

9. Any claim, dispute or controversy, arising out of, or in connection with, or relating to, this Agreement shall be resolved, determined and settled by arbitration in accordance with the Commercial Arbitration Rules then in effect of the American Arbitration Association, and judgement upon the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof. Any such arbitration, and any hearings in connection therewith, shall be held and conducted in the City of Los Angeles, California, unless otherwise designated by the AAR.

10. If any action at law, in equity, or in arbitration is instituted relating to this Agreement, the prevailing party shall be entitled to reasonable attorney's fees, and any and all costs and expenses incurred in any such litigation or arbitration.

11. This Agreement shall be construed and interpreted in accordance with, and governed by, the laws of the State of California, unless preempted by Federal law.

12. The failure of either party to this Agreement in any instance to insist on the performance of any of the terms, covenants or conditions of this Agreement or to exercise any right or privilege conferred in this Agreement, shall not be considered a waiver of any subsequent breach, similar or dissimilar, of any of the terms, covenants, conditions, rights or privileges as set forth in this Agreement, and all the terms and conditions of this Agreement shall continue and remain in full force and effect.

13. MANAGER may at any time assign any and all of its rights, obligations and duties under this Agreement to another suitable person or entity engaged in the business providing services of the type to be provided by MANAGER hereunder.

14. For all purposes of this Agreement, it is mutually understood that MANAGER is relying upon the fact that OWNER has shown this document and any Disclosure Statement executed by the OWNER to his attorney and tax advisors.

15. This Agreement and any Disclosure Statement executed by OWNER constitute the entire understanding and agreement between the parties hereto with respect to the subject matter hereunder and there are no agreements, understandings, restrictions, representations, or warranties, between the parties other than those set forth herein. This Agreement may not be modified in whole or in part except in writing signed by both parties hereto.

IN WITNESS WHEREOF, the parties have executed this Agreement on the day and year first above written.

"MANAGER"


RAILROAD CAR MANAGEMENT CO., INC.  
A California corporation,

BY

  
LUCILLE J. BOSTON

"OWNER"

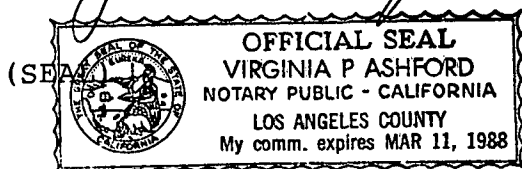
  
EARL SCHAFER

  
SALLIE SCHAFER

STATE OF CALIFORNIA     )  
COUNTY OF LOS ANGELES   )   SS.

On this 2nd day of July, 1986, before me, a Notary Public in this State, personally appeared LUCILLE J. BOSTON, personally known to me to be the person whose name is subscribed to this instrument, and acknowledged to me that she executed it.

  
NOTARY PUBLIC



4337 Marina City Drive, Marina Del Rey, CA 90292